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10 UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA DIVISION

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12 THE BOARD OF TRUSTEES, in their capacities
as Trustees of the LABORERS HEALTH AND
WELFARE TRUST FUND FOR NORTHERN
CALIFORNIA; LABORERS VACATION-
HOLIDAY TRUST FUND FOR NORTHERN
CALIFORNIA; LABORERS PENSION TRUST
FUND FOR NORTHERN CALIFORNIA; and
LABORERS TRAINING AND RETRAINING
TRUST FUND FOR NORTHERN
CALIFORNIA,

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18 No. 12-cv-1047 MEJ

19 EX PARTE APPLICATION FOR
CONTINUANCE OF CASE
MANAGEMENT CONFERENCE;
~~(PROPOSED)~~ ORDER

20 Plaintiff,

21 v.

22 PROTECH SERVICES, INC., a California
corporation, individually and doing business as
PROTECH GENERAL CONTRACTING
SERVICES

23 Defendant.

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25 TO: THE CLERK OF THE COURT AND DEFENDANT PENINSULA BUILDERS, INC.,
26 A California Corporation:

27 Pursuant to Civil Local Rule 7-10, Plaintiffs hereby request that the initial Case
28 Management Conference scheduled for April 18, 2013 at 10:00 a.m. be continued for ninety days

1 to allow Plaintiffs additional time to prepare and serve a Motion for Default Judgment on
 2 Defendant.

3 Plaintiffs filed its Complaint in this matter on February 23, 2012. Defendant was served
 4 on June 8, 2012. On June 14, 2012, Plaintiffs' counsel was contacted by Defendant's counsel,
 5 Michael M. Noble, who stated that he would be filing an answer. Plaintiffs awaited the filing of
 6 the answer, which never came. On July 2, 2012, Plaintiffs' counsel received an Answer by mail
 7 that had not been filed with the Court. Plaintiffs' counsel made several phone calls to Mr.
 8 Noble's office to notify him of this fact and did not receive a response. On August 6, 2012,
 9 Plaintiff's counsel sent Mr. Noble correspondence letting him know that the Answer had not been
 10 filed and requesting confirmation that Mr. Noble continued to represent the Defendant in this
 11 matter. Mr. Noble did not respond.

12 On October 2, 2012, Plaintiffs requested that the Court enter Defendant's Default. Default
 13 was entered on October 4, 2012.

14 On or around November 16, Plaintiffs' counsel was contacted by telephone by a new
 15 attorney representing Defendant, David. S. Barrett. Plaintiffs attempted on various occasions to
 16 settle this matter with Defendant via Mr. Barrett, as well as to seek payment of the delinquent
 17 amounts from general contractors, with whom Defendant worked.

18 Given that Defendant has stopped responding to Plaintiffs demands for payment or
 19 settlement, Plaintiffs will be filing a Motion for Default Judgment.

20 Given these facts, Plaintiffs request that Case Management Conference be continued for
 21 ninety days in order to allow Plaintiffs additional time to prepare and file this motion.

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The above stated facts are set forth in the accompanying Declaration of Concepción E. Lozano-Batista in Support of Ex Parte Application to Continue Case Management Conference, filed herewith.

Dated: April 12, 2013

**WEINBERG, ROGER & ROSENFELD
A Professional Corporation**

By: /s/ Concepción E. Lozano-Batista
CONCEPCIÓN E. LOZANO-BATISTA
Attorneys for Plaintiffs

ORDER CONTINUING CASE MANAGEMENT CONFERENCE

Based upon the foregoing Ex Parte Application for Continuance of Case Management Order and Declaration of Concepción E. Lozano-Batista in Support of Ex Parte Application to Continue Case Management Conference, the Court orders a continuance of the Case Management Conference for ~~90~~ days, or as soon thereafter as a court date is available. In addition, the Court orders: that counsel serve defendant and/or his counsel with a copy of this Order.

Dated: April 15, 2013

HONORABLE MARIA ELENA JAMES

United States District Court Judge

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